

Assembly Bill No. 844

Passed the Assembly August 31, 2011

Chief Clerk of the Assembly

Passed the Senate August 22, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 72023.5 of, and to add Sections 66016.3 and 66016.4 to, the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 844, Lara. Student government: students qualifying for exemption from nonresident tuition: California Community Colleges: governing board membership.

(1) The Donahoe Higher Education Act sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education.

Existing law exempts a student, other than a nonimmigrant alien, as defined, from paying nonresident tuition at the California State University and the California Community Colleges if certain requirements are met. Those requirements include that the person has attended high school in California for 3 or more years, has graduated from a California high school or has attained the equivalent thereof, has registered at or attends an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year, and, if the person is without lawful immigration status, has filed a certain affidavit.

This bill would add a provision to the Donahoe Higher Education Act that would provide that any student, including a person without lawful immigration status, or a person who is exempt from nonresident tuition, as described above, may serve in any capacity in student government at the California State University or the California Community Colleges and receive any grant, scholarship, fee waiver, or reimbursement for expenses that is connected with that service to the full extent consistent with federal law. The University of California would be requested to comply with this provision.

This bill would find and declare that the amendments to the Donahoe Higher Education Act described above are state laws within the meaning of a specified federal provision.

(2) Existing law requires the governing board of each community college district to order the inclusion within the membership of the governing board of one or more nonvoting students who are residents of California, as determined pursuant to specified provisions of existing law, are enrolled in a community college of the district, and chosen by students enrolled in a college of the district in accordance with procedures prescribed by the governing board.

This bill would eliminate the requirement that a nonvoting student member of the governing board be a resident of California.

The people of the State of California do enact as follows:

SECTION 1. Section 66016.3 is added to the Education Code, to read:

66016.3. (a) Any student, including a person without lawful immigration status, or a person who is exempt from nonresident tuition pursuant to Section 68130.5, may serve in any capacity in student government at the California State University or the California Community Colleges and receive any grant, scholarship, fee waiver, or reimbursement for expenses incurred connected with that service to the full extent consistent with federal law.

(b) The University of California is requested to comply with this section.

(c) The Legislature finds and declares this section is a state law within the meaning of subsection (d) of Section 1621 of the United States Code.

SEC. 2. Section 66016.4 is added to the Education Code, to read:

66016.4. If a state court finds that Section 66016.3, or any similar provision adopted by the Regents of the University of California, is unlawful, the court may order, as equitable relief, that the administering entity that is the subject of the lawsuit terminate any waiver awarded under that statute or provision, but no money damages, tuition refund or waiver, or other retroactive relief may be awarded. In any action in which the court finds that Section 66016.3, or any similar provision adopted by the Regents of the University of California, is unlawful, the California Community Colleges, the California State University, and the University of California are immune from the imposition of any

award of money damages, tuition refund or waiver, or other retroactive relief.

SEC. 3. Section 72023.5 of the Education Code is amended to read:

72023.5. (a) (1) The governing board of each community college district shall order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, of one or more nonvoting students. These students shall have the right to attend each and all meetings of the governing board, except that student members shall not have the right, or be afforded the opportunity, to attend executive sessions of the governing board.

(2) The students selected to serve on the governing board, shall be enrolled in a community college of the district and shall be chosen, and shall be recalled, by the students enrolled in the community colleges of the district in accordance with procedures prescribed by the governing board. A student member shall be required throughout the term of his or her appointment to be enrolled in a community college of the district for at least five semester units, or its equivalent, and shall meet and maintain the minimum standards of scholarship for community college students prescribed by the community college district. The term of the student members shall be one year commencing on June 1 of each year.

(3) The nonvoting student members appointed pursuant to this section shall be entitled to mileage allowance to the same extent as regular members, but are not entitled to the compensation prescribed by Section 72425.

(4) A nonvoting student member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

(5) A nonvoting student member shall not be included in determining the vote required to carry any measure before the board.

(6) A nonvoting student member shall not be liable for any acts of the governing board.

(b) Notwithstanding subdivision (a), the nonvoting student member or members selected to serve on the governing board of

a community college district pursuant to subdivision (a) may do any of the following:

(1) Make and second motions at the discretion of the governing board.

(2) Attend closed sessions, other than closed sessions on personnel matters or collective bargaining matters, at the discretion of the governing board.

(3) Receive compensation, at the discretion of the governing board, up to the amount prescribed by Section 72425.

(4) Serve a term of one year commencing on May 15 of each year, at the discretion of the governing board.

(c) It is the intent of the Legislature that any decision or action, including any contract entered into pursuant thereto, upon the motion or second of a motion of a student member, shall be fully legal and enforceable against the district or any party thereto.

(d) The governing board of each community college district that affords the student member or members of the board any of the privileges enumerated in subdivision (b) shall, by May 15 of each year, adopt rules and regulations implementing this section. These rules and regulations shall be effective until May 15 of the following year.

(e) If a state court finds this section is unlawful, the court may order, as equitable relief, that the administering entity that is the subject of the lawsuit terminate any waiver awarded under this statute or provision, but no money damages, tuition refund or waiver, or other retroactive relief may be awarded. In any action in which the court finds this section is unlawful, the California Community Colleges are immune from the imposition of any award of money damages, tuition refund or waiver, or other retroactive relief.

Approved _____, 2011

Governor